

27123

↑CUSTOMER NUMBER↑

Docket No. **1232-5364**

IN THE UNITED STATES PATENT AND TRADEMARK OFFICE

Serial No.:	10/815,506	Confirmation No.:	1302
Applicant(s):	Toshiaki Iizuka	Group Art Unit:	2113
Filed:	March 31, 2004	Examiner:	PUENTE, EMERSON C
For:	LOG ACQUISITION AND ITS CONTROL PROGRAM AND STORAGE MEDIUM		

PETITION FOR RECONSIDERATION OF PATENT TERM ADJUSTMENT

Mail Stop **Petitions**
Commissioner for Patents
P.O. Box 1450
Alexandria, VA 22313-1450

Sir:

Applicants hereby petition for reconsideration of the July 10, 2008 Determination of Patent Term Adjustment under 35 U.S.C. §154(b).

In accordance with to 37 C.F.R. §1.705(b), applicants submit herewith 1) a statement of the facts involved and 2) the fee set forth in 37 C.F.R. §1.18(e).

STATEMENT OF FACTS

On March 31, 2004, the subject application was filed in the U.S. Patent & Trademark Office (USPTO), thus qualifying for Patent Term Adjustment (PTA) under 35 U.S.C. §154. The instant application is not currently subject to a terminal disclaimer.

On February 26, 2008, the USPTO mailed a first Office Action (i.e. Non-Final Rejection), whereby the instant application accrued a PTA of **1001 days** due to delays attributable to the USPTO under 37 CFR §1.703(a)(1).

On Monday, May 27, 2008, Applicants filed in the USPTO a Response to the Non-Final Rejection. See **EXHIBIT A**: Electronic Acknowledgement Receipt.

On July 10, 2008, the USPTO mailed a “Notice of Allowance and Issue Fee(s) Due” along with a “Determination of Patent Term Adjustment under 35 U.S.C. 154 (b)”, whereby a PTA of 1000 days was indicated.

Patent Term Adjustments, as calculated by the USPTO, show that a **1 day** PTA reduction was applied, due to Applicants’ delay in filing the May 27, 2008 Response. See **EXHIBIT B**: “Patent Term Adjustment History” retrieved by Applicants from PAIR on July 10, 2008.

Applicants respectfully assert that in accordance with current USPTO guidelines, as set forth in MPEP §710.05, the Response to the Non-Final Rejection, filed on Monday, May 27, 2008, was within the shortened statutory period for reply set forth in the Non-Final Rejection and should be considered timely. More specifically, the MPEP provides that “[w]hen the day, or the last day fixed by statute or by or under this part for taking any action or paying any fee in the United States Patent and Trademark Office falls on Saturday, Sunday, or on a Federal holiday within the District of Columbia, the action may be taken, or the fee paid, on the next succeeding business day which is not a Saturday, Sunday, or a Federal holiday.” (MPEP §710.05). Accordingly, the 1 day PTA reduction is improper.

In view of the above, this Petition for reconsideration of the PTA is believed to be properly submitted under 37 C.F.R. §1.705(d). Accordingly, Applicants respectfully submit (1) that there are no circumstances attributable to Applicants that constitute a failure to engage in reasonable efforts to conclude prosecution (processing or examination) of the application as set forth in 37 C.F.R. §1.704, (2) that this patent application is properly entitled to the originally indicated PTA of 1001 days, and (3) that the 1001 days PTA should be reinstated, which action is hereby requested.

CONCLUSION

In considering the evidence as supported by the attached Exhibits A and B, Applicants respectfully request reconsideration of the Patent Term Adjustment and request that the instant application be accorded a **Patent Term Adjustment of 1001 days**.

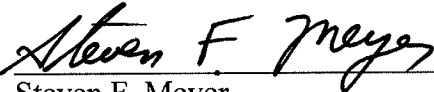
AUTHORIZATION

The Commissioner is hereby authorized to charge the requisite fee set forth in 37 C.F.R. §1.18(e) and any additional fees that may be required for consideration of this Petition to Deposit Account No. **13-4500**, Order No. 1232-5364. A DUPLICATE OF THIS DOCUMENT IS ATTACHED.

Respectfully submitted,
MORGAN & FINNEGAN, L.L.P.

Dated: July 28, 2008

By: _____



Steven F. Meyer

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Electronic Acknowledgement Receipt

EFS ID:	3359693
Application Number:	10815506
International Application Number:	
Confirmation Number:	1302
<u>EXHIBIT A</u>	
Title of Invention:	Log acquisition method and its control program and storage medium
First Named Inventor/Applicant Name:	Toshiaki Iizuka
Customer Number:	27123
Filer:	Steven F. Meyer/chisato asip
Filer Authorized By:	Steven F. Meyer
Attorney Docket Number:	1232-5364
➔ Receipt Date:	27-MAY-2008 ←
Filing Date:	31-MAR-2004
Time Stamp:	15:43:37
Application Type:	Utility under 35 USC 111(a)

Payment information:

Submitted with Payment	no				
File Listing:					
Document Number	Document Description	File Name	File Size(Bytes) /Message Digest	Multi Part /.zip	Pages (if appl.)
1		1232-5364amndscn2.pdf	488467 a59fc066ae911687cce0bee937c62817 dde05ba1	yes	10

Multipart Description/PDF files in .zip description			
Document Description		Start	End
Amendment - After Non-Final Rejection		1	1
Drawings-only black and white line drawings		2	2
Claims		3	5
Applicant Arguments/Remarks Made in an Amendment		6	9
Drawings-only black and white line drawings		10	10

Warnings:

Information:

Total Files Size (in bytes):	488467
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This Acknowledgement Receipt evidences receipt on the noted date by the USPTO of the indicated documents, characterized by the applicant, and including page counts, where applicable. It serves as evidence of receipt similar to a Post Card, as described in MPEP 503.

New Applications Under 35 U.S.C. 111
If a new application is being filed and the application includes the necessary components for a filing date (see 37 CFR 1.53(b)-(d) and MPEP 506), a Filing Receipt (37 CFR 1.54) will be issued in due course and the date shown on this Acknowledgement Receipt will establish the filing date of the application.

National Stage of an International Application under 35 U.S.C. 371
If a timely submission to enter the national stage of an international application is compliant with the conditions of 35 U.S.C. 371 and other applicable requirements a Form PCT/DO/EO/903 indicating acceptance of the application as a national stage submission under 35 U.S.C. 371 will be issued in addition to the Filing Receipt, in due course.

New International Application Filed with the USPTO as a Receiving Office
If a new international application is being filed and the international application includes the necessary components for an international filing date (see PCT Article 11 and MPEP 1810), a Notification of the International Application Number and of the International Filing Date (Form PCT/RO/105) will be issued in due course, subject to prescriptions concerning national security, and the date shown on this Acknowledgement Receipt will establish the international filing date of the application.

EXHIBIT A

EXHIBIT B

10/815,506	LOG ACQUISITION METHOD AND ITS CONTROL PROGRAM AND STORAGE MEDIUM	07-10- 2008::12:22:49
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Patent Term Adjustments

Patent Term Adjustment (PTA) for Application Number: 10/815,506

Filing or 371(c) Date:	03-31-2004	USPTO Delay (PTO) Delay (days):	1001
Issue Date of Patent:	-	Three Years:	-
Pre-Issue Petitions (days):	+0	Applicant Delay (APPL) Delay (days):	1
Post-Issue Petitions (days):	+0	Total PTA (days):	1000
USPTO Adjustment(days):	+0	Explanation Of Calculations	

Patent Term Adjustment History

Date	Contents Description	PTO(Days)	APPL(Days)
07-10-2008	Mail Notice of Allowance		
07-07-2008	Notice of Allowance Data Verification Completed		
07-07-2008	Document Verification		
05-27-2008	New or Additional Drawing Filed		
06-22-2008	Date Forwarded to Examiner		
<u>05-27-2008</u>	Response after Non-Final Action ←		
03-08-2008	Mail Post Card		
02-29-2008	Email Notification		
02-26-2008	Mail Non-Final Rejection	1001	
02-19-2008	Non-Final Rejection	↑	
12-28-2007	Information Disclosure Statement considered	↑	
02-07-2005	Information Disclosure Statement considered	↑	
01-23-2008	Case Docketed to Examiner in GAU	↑	
01-19-2008	Case Docketed to Examiner in GAU	↑	
01-16-2008	Case Docketed to Examiner in GAU	↑	
01-11-2008	Case Docketed to Examiner in GAU	↑	
12-28-2007	Information Disclosure Statement (IDS) Filed	↑	
10-24-2007	Transfer Inquiry to GAU	↑	
10-17-2007	Withdraw Flagged for 5/25	↑	
10-17-2007	Withdraw Flagged for 5/25	↑	
10-15-2007	Flagged for 5/25	↑	
10-15-2007	Flagged for 5/25	↑	
10-12-2007	Transfer Inquiry to GAU	↑	
10-09-2007	Transfer Inquiry to GAU	↑	
10-09-2007	Transfer Inquiry to GAU	↑	
10-09-2007	Transfer Inquiry to GAU	↑	
08-01-2007	Transfer Inquiry to GAU	↑	
06-25-2007	Transfer Inquiry to GAU	↑	
05-17-2007	Transfer Inquiry to GAU	↑	

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EXHIBIT B

04-04-2007	Transfer Inquiry to GAU	🔒
12-08-2006	Transfer Inquiry to GAU	🔒
11-08-2006	IFW TSS Processing by Tech Center Complete	🔒
02-07-2005	Information Disclosure Statement (IDS) Filed	🔒
02-07-2005	Information Disclosure Statement (IDS) Filed	🔒
06-30-2005	Miscellaneous Incoming Letter	🔒
08-09-2004	Correspondence Address Change	🔒
06-12-2004	Application Return from OIPE	🔒
06-12-2004	Application Return TO OIPE	🔒
06-11-2004	Application Return from OIPE	🔒
06-14-2004	Application Is Now Complete	🔒
06-11-2004	Application Return TO OIPE	🔒
06-10-2004	Application Dispatched from OIPE	🔒
06-14-2004	Application Is Now Complete	🔒
05-05-2004	Cleared by OIPE CSR	🔒
04-14-2004	IFW Scan & PACR Auto Security Review	🔒
03-31-2004	Initial Exam Team nn	🔒

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